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Attorneys for Plaintiffs

L.C., I.H., A.L., and

ANTONIA SALAS UBALDO

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

L.C., a minor by and through her
guardian *ad litem* Maria Cadena,
individually and as successor-in-interest
to Hector Puga; I.H., a minor by and
through his guardian *ad litem* Jasmine
Hernandez, individually and as
successor-in-interest to Hector Puga;
A.L., a minor by and through her
guardian *ad litem* Lydia Lopez,
individually and as successor-in-interest
to Hector Puga; and ANTONIA
SALAS UBALDO, individually;

Plaintiffs,

vs.

STATE OF CALIFORNIA; COUNTY
OF SAN BERNARDINO; S.S.C., a
nominal defendant; ISIAH KEE;
MICHAEL BLACKWOOD;
BERNARDO RUBALCAVA;
ROBERT VACCARI; JAKE ADAMS;
and DOES 6-10, inclusive,

Defendants.

Case No. 5:22-cv-00949-KK-SHK

Honorable Kenly Kiya Kato

Mag. Judge Shashi H. Kewalramani

**STIPULATION TO MODIFY
SCHEDULING ORDER TO
CONTINUE TRIAL AND
PRETRIAL DEADLINES**

1 Under Federal Rule of Civil Procedure 16(b)(4) and Local Rules 7-1 and 16-14,
2 Plaintiffs L.C., a minor by and through her guardian *ad litem* Maria Cadena; I.H., a
3 minor by and through his guardian *ad litem* Jasmine Hernandez; A.L., a minor by and
4 through her guardian *ad litem* Lydia Lopez; and Antonia Salas Ubaldo (“Plaintiffs”)
5 and Defendants State of California, by and through the California Highway Patrol,
6 Michael Blackwood, Isaiah Kee, Bernardo Rubalcava (“State Defendants”), County
7 of San Bernardino, Robert Vaccari, and Jake Adams (“County Defendants”)
8 (collectively “Defendants”), stipulate for the purpose of jointly requesting that the
9 honorable Court modify the March 8, 2023 Scheduling Order issued in this action.
10 The parties seek to continue all the deadlines, including trial, by seven months to
11 allow the parties time to complete fact and expert discovery, which in turn will affect
12 the remaining deadlines.

13 When an act must be done within a specified time, the court may, for good
14 cause, extend the time with or without motion or notice if the court acts, or if a
15 request is made, before the original time expires. Fed. R. Civ. P. 6(b)(1)(A). A
16 scheduling order may be modified only upon a showing of good cause and by leave of
17 Court. *Id.* 16(b)(4); *see, e.g., Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604,
18 609 (9th Cir. 1992) (describing the factors a court should consider in ruling on such a
19 motion). In considering whether a party moving for a schedule modification has good
20 cause, the Court primarily focuses on the diligence of the party seeking the
21 modification. *Johnson*, 975 F.2d at 609 (citing Fed. R. Civ. P. 16 advisory
22 committee’s notes of 1983 amendment). “The district court may modify the pretrial
23 schedule ‘if it cannot reasonably be met despite the diligence of the party seeking the
24 amendment.’” *Id.* (quoting Fed. R. Civ. P. 16 advisory committee notes of 1983
25 amendment). Good cause exists to modify the Scheduling Order because, despite the
26 parties’ diligent efforts, they will be unable to complete discovery by the current
27 deadline.

28 1. Plaintiffs filed their Complaint on June 7, 2022. (Dkt. No. 1)

1 2. The parties filed their Joint Rule 16(f) Report on February 13, 2023.
2 (Dkt. No. 49).

3 3. On March 8, 2023, the Court issued a Civil Trial Scheduling Order (Dkt.
4 No. 57), setting the following dates and deadlines:

- 5 • Last Day to Stipulate or File a Motion to Amend Pleadings or Add New
6 Parties: May 29, 2023
- 7 • Deadline for Initial Designation of Expert Witnesses: January 22, 2024
- 8 • Deadline for Designation of Rebuttal Expert Witnesses: February 5,
9 2024
- 10 • All Discovery Cut-Off (including hearing of discovery motions):
11 February 19, 2024
- 12 • Dispositive Motion Hearing Cut-Off: April 29, 2024
- 13 • Last Day to Conduct Settlement Conference: March 18, 2024
- 14 • Final Pretrial Conference: June 10, 2024
- 15 • Jury Trial: June 25, 2024

16 4. On May 12, 2023, Plaintiffs filed a Third Amended Complaint, the
17 operative complaint. (Dkt. No. 68).

18 5. The parties have been diligently conducting written discovery. The
19 parties have propounded and responded to written discovery. Defendants produced all
20 non-privileged documents and material pertaining to the incident, which amounted to
21 thousands of pages of documents. The parties agreed to setting the depositions of
22 Defendants Isaiah Kee, Michael Blackwood, Bernardo Rubalcava, Robert Vaccari,
23 and Jake Adams (“Defendant Officers”) for December 6, 12, and 13, 2023. Plaintiffs
24 served the deposition notices for the Defendant Officers on November 9, 2023. The
25 parties intended and expected the depositions to go forward as noticed.

26 6. On November 25, 2025, State Defendants’ counsel, Diana Esquivel,
27 suffered an unforeseeable loss of a family member and requested that the December
28 6, 2023 depositions be continued. Due to a misunderstanding among the parties,

1 County Defendants' counsel believed that all Defendant Officers' depositions were to
2 be continued because of the uncertainty of Ms. Esquivel's schedule due to the
3 pending funeral services. Thus, County Defendants' counsel requested that the
4 depositions be continued to another mutually agreeable date.

5 7. The parties have met and conferred on new dates for Defendant Officers'
6 depositions. Due to the calendars and schedule of Defendant Officers and the parties'
7 counsel, the parties are unable to schedule Defendant Officers' depositions until early
8 February 2024 at the earliest. The parties have agreed to tentatively set the Defendant
9 Officers' depositions for the week of February 12-16, 2024. However, the parties also
10 acknowledge that County Defendants' counsel may have a conflict with those dates as
11 counsel is currently set to be engaged in trial on another matter that week. Therefore,
12 the parties have agreed to meet and confer on other mutually agreeable dates should
13 the need arise. Without the depositions of the Defendant Officers, the parties' retained
14 experts cannot provide full and complete opinions, such that the parties will not be
15 prepared to disclose expert witnesses by the current deadline.

16 8. Additionally, Plaintiffs' counsel intends to make a motion to consolidate
17 this case with *Jonathan W. Botten, Sr., et al. v. State of California, et al.* (C.D. Cal.
18 No. 5:23-cv-00257 JGB-SHK), which arises from the same February 17, 2021
19 incident at issue here. Defendants intend to oppose this motion. The *Botten* Plaintiffs
20 are bystanders that were allegedly struck by stray bullets fired by the Defendant
21 Officers. *Botten* was filed on February 16, 2023, and the initial Case Management
22 Conference is set for January 8, 2024. The parties have agreed that discovery taken in
23 this matter may be used in and will apply, where appropriate, to *Botten* to avoid
24 duplicate or repetitive discovery and to conserve resources. For example, the
25 depositions of the Defendant Officers were noticed in both this case and in *Botten*
26 pursuant to the parties' agreement.

27 9. The parties agree that it is in the best interest of all parties to continue all
28 case management dates to allow the parties additional time to complete discovery,

1 conduct expert discovery, and adequately prepare for trial, as well as allowing time
 2 for the Court to determine whether consolidation of *Botten* with this case is
 3 appropriate.

4 10. This Stipulation is the parties' first request to modify the Scheduling
 5 Order.

6 11. Accordingly, in light of the foregoing, the parties hereby stipulate that
 7 good cause exists, and jointly request that the Court modify the Scheduling Order as
 8 follows:

Case Management Event	Prior Date/Deadline	Proposed New Date/Deadline
Deadline for Initial Designation of Expert Witnesses	January 22, 2024	July 29, 2024
Deadline for Designation of Rebuttal Expert Witnesses	February 5, 2024	August 26, 2024
All Discovery Cut-Off (including hearing of discovery motions)	February 19, 2024	September 9, 2024
Dispositive Motion Hearing Cut-Off	April 29, 2024	November 4, 2024
Last Day to Conduct Settlement Conference	March 18, 2024	October 7, 2024
Final Pretrial Conference	June 10, 2024	December 16, 2024
Jury Trial	June 25, 2024	January 13, 2025

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1 **IT IS SO STIPULATED.**

2 DATED: December 8, 2023

LAW OFFICES OF DALE K. GALIPO

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Bv /s/ *Hang D. Le*
Dale K. Galipo
Hang D. Le
Attorneys for Plaintiffs

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9 DATED: December 8, 2023

ROB BONTA
Attorney General of California
CHRISTINE E. GARSKE
Supervising Deputy Attorney General

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*/s/ Diana Esquivel**

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DIANA ESQUIVEL
Deputy Attorney General
*Attorneys for Defendant State of Cal., by and
through the CHP, Blackwood, Kee, and
Rubalcava*

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DATED: December 8, 2023

LYNBERG & WATKINS

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Bv *Amy R. Margolies**
Shannon L. Gustafson
Amy R. Margolies
Anita K. Clarke
Attorneys for Defendants
COUNTY OF SAN BERNARDINO,
ROBERT VACCARI, and JAKE ADAMS

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*The filer, Hang D. Le, hereby attests that all other signatories listed, and on whose behalf the filing is submitted, concur with the filing's content and have authorized the filing.